IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc. Writ Petition No. 148 of 2006.

1. Rajendra Singh Rawat, S/o Sri J.S. Rawat, R/o Renukunj Village Padampur Sukhro, District Pauri Garhwal.
2. Zubed Ahmed, S/o Sri Khalil Ahmad, R/o Light House Sadar Bazar, Ranikhet District Almora.

... Petitioners.

Versus.

1. State of Uttaranchal through Secretary Sports, Govt. of Uttaranchal, Dehradun.
2. Director of Sports, State of Uttaranchal.

.... Respondents.

Sri V.B.S. Negi, learned counsel for the petitioner.
Learned Standing counsel for respondents.

HON'BLE RAJESH TANDON.J.

16.02.2006.

Heard Sri V.B.S. Negi, learned counsel for the petitioners and learned Standing counsel for the respondents. Both the parties submitted that the petition may be disposed of at the admission stage directing the respondent to consider the representation filed by the petitioner on 04-1-2006.

By way of this present writ petition the petitioners have claimed for regularization of services of the petitioners w.e.f. 07-8-2002 with all consequential benefits as well as for considering the time scale which

has been paid to his counter part employees in the department.

According to the case of the petitioners, the petitioners applied for the post of Assistant Coaches and after due selection process petitioner no.1 was appointed on Ad-Hoc basis on 01-8-1988. Petitioner no.2 was appointed on 9-5-1989. Some of the Ad-Hoc appointees along with other appointees preferred a writ petition before Allahabad High Court bearing writ petition no. 440 of 1991 Brij Kishore Bajpayee and others Vs. State of U.P. and others challenging recruitment through Public Service Commission and since the petitioners were the appointees before coming into force before the cut off date, therefore, the petitioner's regularization were directed to be considered in accordance with the rules applicable to them in writ petition no. 440 of 1991. The Bench has referred the provisions of U.P. Regularization of Ad-hoc Appointments (Out side the purview of Public Service Commission) Rules 2001 where it has been mentioned that the candidates appointed on ad-hoc basis prior to 30-6-98 and having completed three years of regular service if they possess the requisite qualification could

be entitled for regularization in service. Similarly the Bench has also referred the rules contained in Uttar Pradesh Regularization of Ad-Hoc Appointments (Out side the purview of Public Service Commission) Rules 2001 which were applicable in the case of the Assistant Coaches. Petitioners were appointed before the cut off date i.e. 30-6-98 and since they were working as such they are also entitled for consideration.

The petitioners have submitted that after passing of the Uttaranchal Regularisation of ad-Hoc Appointments (On posts within the purview of the Public Service Commission) Rules 2002 the petitioners were regularized from 7-2-2005.

The grievance of the petitioners are that although other petitioners who were counter part in the writ petition at Lucknow Bench were regularized from December, 20 2001 and they have also been given time scale vide order dated 15-7-2005 but the petitioners had not been considered for regularization even from the date when the Rules were made applicable to Uttaranchal State from 7-8-2002. The Govt. order dated 7-2-2005 is quoted below:

कार्यालय आदेष

उत्तरांचल शासन के शासनदेष संख्या 129/VI-1/2004.13 खेल /2002 दि0 14.10.2004 के क्रम में उत्तरांचल शासन कार्मिक अनुभाग.2 की अधिसूचना संख्या.1113/कार्मिक–2/2002 दि0 07–8–2002 उत्तरांचल (लोक सेवा आयोग क्षेत्रान्तर्गत पदों पर) तदर्थ नियुक्तियुों का विनियमितीकरण नियमावली 2002 के अन्तर्गत खेल विभाग के तदर्थ रूप से कार्यरत निम्न कार्मिकों को आदेष जारी होने की तिथि से विनयमित किया जाता है।

1.	*श्री आर0एस0 रावत सहायक प्रषिक्षक*	*.4500–7000*	*स्पोर्टस स्टेडियम कोटद्वार गढवाल*
2.	*श्री जुबैद अहमद सहायक प्रषिक्षक*	*4500–7000*	*जिला खेल कार्यालय अल्मोडा*

यह विनियमितीकरण खेल विभाग में कार्मिकों के अन्तिम आवंटन के अधीन सभी अर्थात अन्तिम आवंटन में यदि कोई परिवर्तन/संषोधन होता है, तो विनियमितीकरण आदेष भी तदनुसार संषोधित/परिवर्तित किये जा सकते है।

उपरोक्त कार्मिकों का वरिष्ठता निर्धारण विनियमितीकरण नियमावली 2002 में उल्लखित शर्तो के अधीन बाद में किया जायेगा''

Counsel for the petitioners has also referred rules 4 and 6 which provide that the appointment made under these rules shall be deemed under the relevant rules and the seniority shall be considered from the date or year of appointment in accordance with these

rules. The same are quoted below:

"4- Regularisation of ad hoc appointments-

(1) Any person who-

(i) was directly appointed on ad hoc basis before June 30, 1998 and is continuing in the service as on the date of commencement of these rules;

(ii) possessed requisite qualifications for regular appointment at the time of ad hoc appointment ; and

(iii) *has completed or as the case may be after he has completed three years service as such, shall be considered for regular appointment in permanent or temporary vacancy, as may be available, on the basis of his record and suitability before any regular appointment is made in such vacancy in accordance with the relevant rules or orders.*

(2) In making regular appointments under these rules, reservations for the candidates belonging to the Scheduled Castes, Scheduled Tribes,

Backward Classes and other categories shall be made in accordance with the orders of the Government in force at the time of recruitment.

(3) For the purpose of sub-rule(1) the appointing authority shall constitute a Selection Committee.

(4) The appointing authority shall prepare an eligibility list of the candidates arranged in order of seniority ; as determined from the date of appointment and if two or more persons are appointed together from the order in which their names are arranged in the said appointment order, the list shall be placed before the Selection Committee along with the character rolls and such other records of the candidates as may be considered necessary to assess their suitability.

(5) The Selection Committee shall consider the cases of the candidates

on the basis of their records referred to in sub-rule(4)

(6) The Selection Committee shall prepare a list of the selected candidates, the names in the list being a4rranged in order of seniority, and forward it to the appointing authority.

6- ***Appointments be deemed to be under the relevant Service Rules etc.-*** *Appointment made under these rules shall be deemed to be under the relevant service rules or orders, if any."*

Petitioners have submitted that they have made a representation on 4-1-2006. In view of the above the respondents are directed to consider the claim of the petitioners in accordance with rules and pass appropriate orders on the representation of the petitioners dated 4-1-2006 within a period of six weeks from the date of filing the certified copy of this order.

However it is made clear that if any promotion is made during this period, the same shall be subject to the final orders passed by the respondent no.2.

Subject to aforesaid, the writ petition is disposed of. No order as to costs.

(Rajesh Tondon. J)

16-02-2006
Negi